

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CLEAR BLUE SPECIALTY INSURANCE
COMPANY,

Plaintiff,

V.

OZY MEDIA, INC., SAMIR RAO, CARLOS WATSON, MARC LASRY, and LIFELINE LEGACY HOLDINGS, LLC,

Defendant.

Case No. 5:21-cv-08764-EJD

JOINT STATUS REPORT

Pursuant to the Court’s order, dated November 16, 2023, counsel for Plaintiff Clear Blue Specialty Insurance Company (“Clear Blue”), Defendants Ozy Media, Inc. (“Ozy Media”) and Carlos Watson (“Mr. Watson” and together with Ozy Media, the “Insureds”), and intervenor Ford O’Brien Landy LLP (“Ford O’Brien”) submit the following Joint Status Report.

The Insureds' Statement

For all the reasons stated in our motion papers, the Insureds continue to maintain that the applicable law and equities dictate that the limited insurance proceeds in this case should be advanced toward the considerable defense costs for the upcoming criminal trial of Ozy Media and Mr. Watson, and should not be diverted to pay any past defense costs.

In an attempt to achieve a prompt resolution of the impasse (and subject to a full reservation of the Insureds' rights, including appellate rights), we proposed a compromise under which Ford O'Brien would receive \$50,000 of the insurance proceeds—an amount that would more than compensate for any services the firm may have performed in connection with the insurance recovery in this action. Ford O'Brien rejected that settlement offer and now asks the Court to summarily award it all of the remaining insurance proceeds—\$954,839.58.

1 Ford O'Brien's request for nearly half the policy proceeds has no legal basis, and no
 2 equitable justification, in light of, among other considerations, (1) the \$794,000 Ford O'Brien has
 3 already paid for its pre-indictment representation of Ozy Media; (2) the critical defense costs for
 4 the May 2024 criminal trial, attested to in the recent declaration of Mr. Watson's current defense
 5 counsel, that will be left unfunded absent advancement from Clear Blue; and (3) the irreparable
 6 harm that will result if the defense team is deprived of critical funding for the criminal trial.

7 Ford O'Brien's Statement

8 The two parties have exchanged settlement offers, but have been unable to reach agreement
 9 on the disposition of the insurance proceeds.

10 Ford O'Brien Landy LLP ("FOBL") reiterated its earlier settlement proposal to divide the \$2
 11 million insurance proceeds as follows:

12 1. \$1,250,000 (or 62.5% of the \$2 million total) to Carlos Watson;
 13 2. \$750,000 (or 37.5% of the total) to FOBL.

14 Since Clear Blue has already distributed \$1,045,160.42 to Mr. Watson, this proposal would allow
 15 Mr. Watson to receive an additional \$204,839.58.

16 Mr. Watson rejected this proposal, offering instead to remit to FOBL only \$50,000 of the
 17 insurance proceeds. FOBL has rejected this offer.

18 In light of this history, we do not believe that further negotiations with Mr. Watson would be
 19 fruitful.

20 We therefore respectfully request that the Court enforce the lien against the full amount of
 21 undistributed insurance proceeds, or \$954,839.58, which represents 76% of the unpaid debt to our
 22 firm which stands at \$1,255,871.87 (without interest). In the interest of saving judicial resources,
 23 we are prepared to waive any claim to recoupment of the remaining balance of our lien as against
 24 the insurance proceeds that have already been disbursed.

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1 Clear Blue's Statement

2 Plaintiff Clear Blue Specialty Insurance Company ("Clear Blue") remains ready to comply
 3 with the Court's future orders directing the further distribution of payments from the amounts
 4 remaining from Clear Blue's \$2 million in policy limits.

5 Clear Blue has complied with the Court's prior order to advance defense costs on behalf of
 6 Mr. Watson and its subsequent orders staying any further payments.

7 Clear Blue has taken no position on the allocation of remaining amounts between Mr.
 8 Watson and Ford O'Brien following the Court's Order of November 3, 2023 granting Ford
 9 O'Brien's motion to intervene. Rather, Clear Blue has asserted the position it adopted in its prior
 10 motion to amend and for interpleader: As a stakeholder subject to potential multiple, conflicting
 11 demands on its \$2 million in policy limits, it should not be forced to "determine at [its] peril which
 12 claimant has the better claim." Lee v. W. Coast Life Ins. Co., 688 F.3d 1004, 1009 (9th Cir. 2012).

13 Without waiving any of its arguments or rights, Clear Blue will comply with the Court's
 14 future orders on the disposition of the remaining amounts of Clear Blue's \$2 million policy limits
 15 or, alternatively, implement any agreement to the disposition of those remaining amounts agreed to
 16 by Mr. Watson and Ford O'Brien.

17 Dated: November 30, 2023
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19 /s/ Todd S. Schenk

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